

REMARKS

Applicants submit this amendment and response to the Examiner's Non-final Office Action dated July 6, 2009, with a three month extension of time and a fee that extends the period for response through January 6, 2010. The Office Action has been carefully reviewed and the following remarks are made in response thereto. Claim 55 is cancelled.

Summary of the Office Action

1. Claims 54-71 are pending, with claims 70 and 71 being withdrawn from consideration.
2. The specification was objected to for lacking a brief description of the drawings.
3. Claim 55 was objected to under 37 C.F.R. §1.75(c) as allegedly being an improper dependent claim for failing to further limit the subject matter of claim 54.
4. Claims 54, 55, 58, 59, 61-63, 66, 67, and 68 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 99/62481 ("Bonte").
5. Applicants thank the Examiner for indicating allowable subject matter. Specifically, the Examiner indicated on page 6 of the Office Action that claims 56, 57, 60, 64, and 65 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner also indicated that claim 69 is allowed.

Response to the Office Action

1. Objections to the Specification

The specification was objected to for lacking a brief description of the drawings. The specification is amended herein to include a brief description of the drawings. Support for these amendments can be found at least at pages 37-38 of the specification as originally filed. Applicants assert that no new matter is added. Withdrawal of the objection is respectfully requested.

2. Claim objections under 37 C.F.R. §1.75(c)

Claim 55 was objected to for failing to further limit the subject matter of claim 54. Claim 55 is cancelled. Withdrawal of the objection is respectfully requested.

3. Claim objections under 35 U.S.C. §103(a)

Claims 54, 55, 58, 59, 61-63, 66, 67, and 68 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 99/62481 ("Bonte").

Bonte was not published in the English language. Therefore, Bonte is not entitled to a prior art date as of its filing date, but only as of its publication date. *See* 35 U.S.C. §102(e). Bonte was published on December 9, 1999 and this is the first date that this reference was available as prior art. The instant application claims priority under 35 U.S.C. §119 to German Patent Application No. 199 38 421.5, which was filed on August 13, 1999 – before the prior art date of Bonte. The Examiner indicated on form PTOL-326 at check boxes 12, 12(a) and 12(a)(3) that the certified copy of this priority document has been received in this National Stage application from the International Bureau. Applicants attach an English-language translation of the German-language priority document, along with this amendment and response. This translation is accurate. The priority document satisfies the enablement and written description requirements of 35 U.S.C. §112 for the pending claims. Therefore applicants have perfected the priority claim to German Patent Application No. 199 38 421.5 which antedates Bonte and removes it as prior art. *See* 37 C.F.R. §1.55. Benefit of foreign priority to German Patent Application No. 199 38 421.5 and withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicant believes that the above-reference application is in condition for allowance. Reconsideration and withdrawal of the outstanding rejections and objections and early notice of allowance to that effect is respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 13-3250, reference No. 38891.00100US. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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